

IRS News Release

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IRS, Justice Department Note Increase in Tax Enforcement

Civil and Criminal Enforcement against Tax Cheats On the Rise

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WASHINGTON D.C. — The Department of Justice, working closely with the Internal Revenue Service, has stepped up efforts to identify, investigate and punish tax cheats. Of particular note are the government's efforts to enhance criminal enforcement, use civil injunctions to stop abusive tax schemes, and investigate promoters and users of tax shelters.

"Working with the Justice Department, the IRS is ramping up its enforcement efforts, particularly for high-income individuals and corporations, so that Americans know that when they pay taxes, their neighbors and competitors are doing the same," said IRS Commissioner Mark W. Everson. "We have arrested the decline in enforcement actions that began in the early nineties."

"People who engage in, facilitate or promote tax fraud are increasingly likely to be on the receiving end not only of civil enforcement actions, but also of criminal prosecution," said Eileen J. O'Connor, Assistant Attorney General for the Tax Division. "If you participate in a scheme to defraud the IRS, you can wind up in federal prison, and you will still have to pay taxes, along with interest and penalties."

Criminal Prosecutions of Tax Violations

The Justice Department's Tax Division referred 1,129 defendants to U.S. Attorneys for criminal tax prosecution in 2003, an increase of 35 percent over the year 2000. Criminal tax charges were filed in 2003 against 1,036 defendants investigated by the IRS Criminal Investigation Division. The Tax Division's criminal enforcement priorities include investigating and prosecuting schemes that involve:

- Using bogus trusts to conceal control over income and assets
- Shifting assets and income to hidden offshore accounts
- Claiming fictitious deductions
- Using frivolous justifications for not filing truthful tax returns
- Failing to withhold, report and pay payroll and income taxes
- Failing to report income
- Failing to file tax returns

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Civil Injunctions against the Promotion of Illegal Tax Schemes

The Tax Division also is using its civil power to stop illegal tax schemes by seeking and obtaining injunctions in federal court. Injunctions prohibit promoters from selling illegal tax schemes on the internet, at seminars or through other means. In 2003, the government filed lawsuits to shut down 35 promoters of abusive tax schemes, and federal judges enjoined 28 promoters. In 2000, no such lawsuits were filed. Injunction cases include the following schemes:

- Using an employee-leasing company to evade employment taxes
- Using a “warehouse bank” to commingle and conceal assets
- Establishing a “corporation sole” whereby customers “donate” assets and income to a sham corporation, then fraudulently claim charitable donations
- Using abusive trusts to shift assets out of a taxpayer’s name but retain control
- Claiming personal housing and living expenses as business expenses
- Claiming non-existent tax credits, such as reparations
- Failing to withhold, report and pay payroll and income taxes
- Filing tax returns reporting “zero income”
- Claiming that only income from foreign sources is taxable

The Department of Justice also has obtained injunctions against employers who fail to withhold, account for and pay over employment and withholding taxes. One federal court recently ordered the imprisonment of an employer for failing to comply with the court’s order.

“Civil injunctions are a powerful weapon to stop abusive tax schemes in their tracks,” said Assistant Attorney General Eileen J. O’Connor.

Enforcement of Summonses for Records of Tax Shelter Promoters

The Department also enforced IRS summonses to promoters of alleged tax shelters for information about the shelters, including the identities of their clients. Assistant Attorney General Eileen J. O’Connor explained, “If you are thinking about using a tax shelter, you should keep in mind that the promoter is required by law to give the IRS your name and the details of your transaction. A tax-reduction scheme whose success depends on hiding it from the IRS isn’t worth a cent of what the promoter is charging for it.”

Examples of Completed Criminal Prosecutions

The following are a few of the tax criminals who were sentenced in the past year:

- Bradford G. Brown, an Athens, Georgia physician, was sentenced to serve 41 months in prison and ordered to pay a \$40,000 fine. At trial, the evidence proved that Dr. Brown had failed to report more than \$1.5 million in income, which monies he used to purchase a luxury car, a radio station, real estate and other personal assets.

- William Bernard Oertwig, Jr., a former Miami-Dade Police Department police officer, was sentenced to 41 months in prison after his conviction on six counts of tax evasion for reporting no taxable income from 1996 through 2001. Oertwig was taken into custody immediately after the jury returned its verdict.
- Thomas G. Shoppert, a North Dakota attorney, was sentenced to serve 24 months in prison. He had evaded more than \$500,000 in taxes over a 15-year period, by paying himself in cash and using credit cards in the name of another person to purchase luxury items.
- Theodore McAnlis, a Florida golf course designer, was sentenced to serve more than 10 years in prison, followed by three years of supervised release and ordered to pay \$17,000 in costs of prosecution. He had not filed income tax returns since 1977 and, during that 25 year period, had evaded more than \$5,000,000 in income taxes, interest and penalties.
- Allen Estes, an Indiana accountant, was sentenced to serve three years in prison. He had prepared numerous false income tax returns reporting fictitious business losses to offset income and illegally reduce taxes.
- Ralph N. Whistler, a former Arizona CPA, was sentenced to serve 39 months in prison for aiding in the preparation of false income tax returns. Whistler directed his clients to transfer their income through bank accounts titled in the names of trusts, then prepared false tax returns for the clients.
- Edward J. Lashlee, a California promoter of tax fraud schemes, was sentenced to serve 3 years in prison. He had created thousands of abusive trusts for clients to help them hide a large part of their income and their ownership of major assets. He also provided clients with offshore bank accounts and Visa debit cards issued by Swiss American National Bank of Antigua to further help his clients hide their assets offshore.
- Paul E. Palmer, an Illinois promoter of tax fraud schemes, was sentenced to 9 years in prison and a \$150,000 fine, and ordered to pay restitution to the IRS totaling \$1,369,662. Mr. Palmer had promoted and sold bogus trust packages and moved funds between the purchaser's business bank accounts and the trust accounts to hide the purchaser's income and assets.
- Mark May, an Ohio financial planner, was sentenced to six years in prison and ordered to pay \$728,090 in restitution to the IRS. He had evaded his income taxes and failed to pay employment taxes in his business. He also had closed his business repeatedly, reopened it under new names and used nominees to thwart tax collection efforts by the IRS.
- Jeffrey A. Sherman, a Beverly Hills tax lawyer who helped clients evade the payment of more than \$12 million in income taxes, was sentenced to serve 32 months in prison and pay \$598,381 restitution for conspiring to commit bankruptcy fraud and aiding and abetting tax evasion. The charges arose from Sherman's participation in a scheme in which he and another lawyer helped clients discharge the taxes they owed to the IRS and the state of California in fraudulent bankruptcies by concealing their wealth through nominee companies and numerous bank accounts in the Cayman Islands and Switzerland.

- Ken Appel, owner of a college bookstore in California, was sentenced to serve 12 months and one day in custody for willfully filing a false income tax return. Appel admitted that he skimmed cash from the business for personal use and understated his income from 1996 through 2000, resulting in an underpayment of more than \$324,000 in federal income taxes.
- Dr. Jon C. Pensyl, a former Worthington, Ohio dentist, was sentenced to serve 30 months in prison and pay \$300,000 in restitution to the IRS for his conviction on three counts of tax evasion. Evidence introduced at trial showed from 1995 through 1997, Dr. Pensyl evaded taxation on more than \$750,000 in income derived from his dental practice, rental properties and other investments by concealing his assets and income through the use of trusts and by failing to file tax returns.

Examples of Civil Injunction Cases

Recent civil injunction cases include the following:

- Eduardo Rivera, a California lawyer, was permanently barred by a federal court from promoting several allegedly abusive tax schemes. The court also ordered Rivera to tell the government the names of his customers and to notify the customers about the court order. The court found that Rivera sold "opinion letters" containing frivolous arguments, including "that the federal income tax is voluntary, that Americans employed in the private sector are exempt from federal income tax and do not need to file federal returns, and that the IRS has no authority to assess or collect taxes."
- Randall Jarvis, of Missouri, was barred from organizing or selling allegedly abusive tax schemes, making false statements, and instructing taxpayers to understate their federal income tax liabilities. The court ordered Jarvis to give a copy of the order to each of his customers and to provide the government with a list of those customers. The court found that Jarvis had set up sham trusts and limited liability companies for his clients and then instructed the clients to use the entities to conceal income and assets from the IRS. The IRS identified about 250 clients, against whom it has assessed more than \$2 million in back taxes. The court ordered that Jarvis be imprisoned for failing to obey the injunction order.
- Roderick Prescott and his business, Trust Educational Services, of California, were barred from allegedly selling trust schemes falsely claiming that personal expenses incurred by customers can be paid through a trust in order to obtain tax benefits not available to individuals. The court found that Prescott had sold hundreds of trust documents, some for as much as \$15,500. Through the bogus trusts, Prescott told purchasers to underreport their income and claim improper deductions on their tax returns, resulting in an estimated loss of \$135 million in tax revenue.
- Eddie Kahn and Kathleen Kahn and their businesses American Rights Litigators, Guiding Light of God Ministries, and Eddie Kahn and Associates; attorney Milton Baxley II; David Lokietz; and Texas certified public accountant Bryan Malatesta are subject to a preliminary injunction in Florida barring them from promoting

allegedly abusive tax schemes and practices, including selling counterfeit checks for clients to send to the government in payment of tax liabilities and falsely advising customers that their income will become tax-exempt and their assets immune from collection if they use a “corporation sole,” claim to be a ministry and take a vow of poverty.

- Morris James Sr. and his company, the National Resource Information Center, Inc., were enjoined in Georgia from promoting a nationwide reparations tax scam and from acting as income-tax return preparers. The court found that James falsely claimed that taxpayers could claim a tax credit as a reparation for slavery and that he prepared federal income tax returns for more than 6,300 customers seeking refunds of \$43,000 each. The IRS prevented more than \$900 million in losses to the U.S. Treasury by identifying and disallowing the fraudulent claims.

Further details about these and other tax enforcement cases are available on the Tax Division's Web site, on IRS.gov and the IRS Criminal Investigation Division's Web site.

The Department of Justice encourages anyone who has information about suspected tax fraud to report it to the IRS tip line at 1-800-829-0433.

Related Links:

- Enforcement Statistics — Criminal Investigation Enforcement Strategy, <http://www.irs.gov/irs/article/0,,id=108792,00.html>
- Criminal Investigation Division, <http://www.ustreas.gov/irs/ci/>
- DOJ, Tax Division's Web site, <http://www.usdoj.gov/tax>